

Special Conditions: [Updated May 4, 2007]

- 1. Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232. The Permittee shall reference this permit number, SAJ- - (-), on all submittals.
- 2. Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.
- 3. Wetland Avoidance/Minimization Areas:** The Permittee shall avoid the remaining acre(s) of onsite wetlands, (Attachment /as detailed on Drawings through of). These natural wetland areas were avoided as part of the permit application review process and therefore will not be disturbed by any dredging, filling, mechanized land clearing, agricultural activities, or other construction work whatsoever. The Corps reserves the right to deny review of any requests for future impacts to these natural wetland areas.
- 4. Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.
- 5. Mitigation Credit Purchase:** Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall provide verification to the Corps that federal mitigation bank credits have been purchased from the Mitigation Bank (SAJ- -). The required verification shall reference this project's permit number (SAJ- -).

6. Compensatory Mitigation: Within 6 months from the from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall complete the following mitigation objectives in accordance with the approved compensatory mitigation plan (Attachment) as detailed on Drawings through of :

a. Onsite Mitigation

(1) Wetland Enhancement: Examples: Manually remove Category I and II invasive exotic plant species from 4.5 acres of invasive exotic invaded scrub/shrub wetlands. Fill 1000 linear feet of ditches to achieve hydrologic enhancement over 4.5 acres of existing herbaceous wetland.

(2) Wetland Restoration: Example: Fill 1000 square feet of ditches, remove 0.5 acre of fill and plant Saltmarsh cordgrass (*Spartina alterniflora*) to restore 3.2 acres of former tidal estuarine wetlands.

(3) Wetland Creation: Example: Remove fill from 5.7 acres and plant with Pond Pine (*Pinus serotina*), Loblolly Bay (*Gordonia lasianthus*), Staggerbush (*Lyonia Lucida*) to create a wet-pine flatwood.

(4) Upland and Wetland Preservation: Example: Maintain 25 acres of freshwater forested wetlands and 3 acres of forested upland buffer.

b. Offsite Mitigation

(1) Wetland Enhancement: Example: Manually remove Category I and II invasive exotic plant species from 4.5 acres of invasive exotic invaded scrub/shrub wetlands. OR fill 1000 linear feet of ditches to achieve hydrologic enhancement over 4.5 acres of existing herbaceous wetland.

(2) Wetland Restoration: Example: Fill 1000 square feet of ditches, remove 0.5 acre of fill and plant Saltmarsh cordgrass (*Spartina alterniflora*) to restore 3.2 acres of former tidal estuarine wetlands.

(3) Wetland Creation: Example: Remove fill from 5.7 acres and plant with Pond Pine (*Pinus serotina*), Loblolly Bay (*Gordonia lasianthus*), Staggerbush (*Lyonia Lucida*) to create a wet-pine flatwood.

(4) Upland and Wetland Preservation: Example: Acquire and maintain the Flynn Tract which includes 45 acres of herbaceous wetlands and 12 acres of scrub/shrub uplands.

These onsite and offsite compensatory mitigation areas shall be preserved in perpetuity in accordance with the **Conservation Easement** Special Condition of this permit.

7. Performance Standards: To meet the objectives of the approved compensatory mitigation plan, the Permittee shall achieve the following performance standards:

a. At least 80 percent cover by appropriate wetland species (i.e., FAC or wetter).

b. Less than 5 percent cover of Category I and II invasive exotic plant species, pursuant to the most current list established by the Florida Exotic Pest Plant Council at <http://www.fleppc.org>, and shall include the nuisance species primrose willow (*Ludwigia peruviana*), dogfennel (*Eupatorium capillifolium*), Bermudagrass (*Cynodon* spp.), Bahiagrass (*Paspalum notatum*), and cattail (*Typha* spp.).

c. Less than 20 percent mortality of planted wetland species.

d. Hydrologic enhancement will result in soils that are saturated to the surface between 5 and 12.5 percent of the growing season.

The Permittee shall achieve the above performance standards by the end of the 5-year monitoring period, with no maintenance during the 5th year of monitoring. In the event that the above performance standards have not been achieved, the Permittee shall undertake a remediation program approved by the Corps in accordance with the **Remediation** Special Condition of this permit.

8. Monitoring and Reporting Timeframes: To show compliance with the performance standards the Permittee shall complete the following:

a. Perform a time-zero monitoring event of the wetland mitigation area(s) within 60 days of completion of the compensatory mitigation objectives identified in the **Compensatory Mitigation** Special Condition of this permit.

b. Submit the time-zero report to the Corps within 60 days of completion of the monitoring event. The report will include a paragraph depicting baseline conditions of the mitigation site(s) prior to initiation of the compensatory mitigation objectives and a detailed plan view drawing of all created, enhanced and/or restored mitigation areas.

c. Subsequent to completion of the compensatory mitigation objectives, perform semi-annual monitoring of the wetland mitigation areas for the first 3 years and annual monitoring thereafter for a total of no less than 5 years of monitoring.

d. Submit annual monitoring reports to the Corps within 60 days of completion of the monitoring event. Semi-annual monitoring will be combined into one annual monitoring report.

e. Monitor the mitigation area(s) and submit annual monitoring reports to the Corps until released in accordance with the **Mitigation Release** Special Condition of this permit.

9. **Reporting Format:** Annual monitoring reports shall follow a 10-page maximum report format for assessing compensatory mitigation sites. The Permittee shall submit all documentation to the Corps on 8½-inch by 11-inch paper, and include the following:

a. Project Overview (1 Page):

(1) Department of the Army Permit Number

(2) Name and contact information of Permittee and consultant

(3) Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted

(4) A summary paragraph defining the purpose for the approved project, acreage and type of aquatic resources impacted, and mitigation acreage and type of aquatic resources authorized to compensate for the aquatic impacts

(5) Written description on the location and any identifiable information to locate the site perimeter(s)

(6) Directions to the mitigation site (from a major highway)

(7) Dates compensatory mitigation commenced and/or was completed

(8) Short statement on whether the performance standards are being met

(9) Dates of any recent corrective or maintenance activities conducted since the previous report submission

(10) Specific recommendations for any additional corrective or remedial actions.

b. Requirements (1 page): List the monitoring requirements and performance standards, as specified in the approved mitigation plan and special conditions of this permit, and evaluate whether the compensatory mitigation project site is successfully achieving the approved performance standards or trending towards success.

c. Summary Data (maximum of 4 pages): Data shall be provided to substantiate the success and/or potential challenges associated with the compensatory mitigation project. Any photo documentation shall be dated and clearly labeled with the direction from which the photo was taken, and be identified on the appropriate maps.

d. Maps (maximum of 3 pages): Maps shall be provided to show the location of the compensatory mitigation site relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan.

e. Conclusions (1 page): A general statement shall be included describing the conditions of the compensatory mitigation project. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions proposed by the Permittee, including a timetable, shall be provided.

10. **Remediation:** If the compensatory mitigation fails to meet the performance standards 5 years after completion of the compensatory mitigation objectives, the compensatory mitigation will be deemed unsuccessful. Within 60 days of notification by the Corps that the compensatory mitigation is unsuccessful, the Permittee shall submit to the Corps an alternate compensatory mitigation proposal to fully offset the functional loss that

occurred as a result of the project. The alternate compensatory mitigation proposal may be required to include additional mitigation to compensate for the temporal loss of wetland function associated with the unsuccessful compensatory mitigation activities. The Corps reserves the right to fully evaluate, amend, and approve or reject the alternate compensatory mitigation proposal. Within 120 days of Corps approval, the Permittee will complete the alternate compensatory mitigation proposal.

11. **Mitigation Release:** The Permittee's responsibility to complete the required compensatory mitigation, as set forth in the **Compensatory Mitigation** Special Condition of this permit will not be considered fulfilled until mitigation success has been demonstrated and written verification has been provided by the Corps. A mitigation area which has been released will require no further monitoring or reporting by the Permittee; however the Permittee, Successors and subsequent Transferees remain perpetually responsible to ensure that the mitigation area(s) remain in a condition appropriate to offset the authorized impacts in accordance with General Condition 2 of this permit.

12. **Self-Certification:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (Attachment) and submit to the Corps. In the event that the completed work deviates, in any manner, from the authorized work, the Permittee shall describe, on the Self-Certification Form, the deviations between the work authorized by the permit and the work as constructed. Please note that the description of any deviations on the Self-Certification Form does not constitute approval of any deviations by the Corps.

12. **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show

all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

13. **Record Permit:** The Permittee shall record this permit with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of this permit the Permittee shall provide a copy of the recorded permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the permit is recorded and the date of recording.

14. **Deed Restriction:** The Permittee shall have a legally sufficient deed restriction prepared to ensure that the areas referenced in the **Compensatory Mitigation** Special Condition will remain in their natural state in perpetuity. The deed restriction will encompass approximately acre(s) of wetlands and acre(s) of uplands. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever. The Permittee agrees that the only future utilization of the preserved areas in question will be as a purely natural area. The deed restriction shall cite the Corps permit number and reference the prohibitions set forth in Florida Statutes §704.06 (a) through (h). To show compliance with this condition the Permittee shall complete the following:

a. Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this

permit, whichever first occurs, submit to the Corps a draft deed restriction document with a legal description, survey, and scale drawings of the area in question. The following paragraph shall be incorporated in the deed restriction:

"Rights of U.S. Army Corps of Engineers (Corps)- The Corps shall be a party to any modification, alteration, release, or revocation of the deed restriction, and shall review and approve as necessary any additional structures or activities that require approval."

b. Within 30 days of Corps' approval of the draft deed restriction, record the deed restriction in the public records of County, Florida. A certified copy of the recorded document and plat shall be forwarded to the Corps within 60 days of Corps' approval of the draft deed restriction.

c. In the event this permit is transferred, proof of delivery of a copy of the recorded deed restriction to the subsequent Permittee or Permittees shall be submitted to the Corps together with the notification of permit transfer.

14. **Conservation Easement:** The Permittee shall have a legally sufficient conservation easement prepared to ensure that the areas referenced in the **Compensatory Mitigation** Special Condition will remain in their natural state in perpetuity. The conservation easement will encompass approximately acre(s) of wetlands and acre(s) of uplands. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever except as required or authorized by this permit. The Permittee agrees that the only future utilization of the preserved areas in question will be as a purely natural area. To show compliance with this condition the Permittee shall complete the following:

a. Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, submit to the Corps the draft conservation easement document with a legal description, survey, and scale drawings, of the area in question. The Corps shall have all rights of the Grantee in the conservation easement. The following paragraph shall be incorporated in the conservation easement document:

"Rights of U.S. Army Corps of Engineers (Corps)- The Corps shall be a party to any modification, alteration, release,

or revocation of the conservation easement, and shall review and approve as necessary any additional structures or activities that require approval."

b. Within 30 days of Corps' approval of the draft conservation easement, record the easement in the public records of _____ County, Florida. A certified copy of the recorded document, plat, and verification of acceptance from the grantee shall be forwarded to the Corps within 60 days of Corps' approval of the draft conservation easement.

c. Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, submit to the Corps a title insurance commitment with the draft conservation easement document, IN FAVOR OF THE GRANTEE, for the property which is being offered for preservation to show that the Permittee has clear title to the real property and can legally place it under a conservation easement. Any existing liens or encumbrances on the property shall be subordinated to the conservation easement. At the time of recordation of the conservation easement, a title insurance policy shall be provided to the Corps in an amount equal to the current market value of the property.

d. In the event this permit is transferred, proof of delivery of a copy of the recorded conservation easement to the subsequent Permittee or Permittees shall be submitted to the Corps together with the notification of permit transfer.

The Grantee shall not assign its rights or obligations under this conservation easement except to another organization qualified to hold such interests under the applicable state and federal laws, including §704.06 Florida Statutes, and committed to holding this conservation easement exclusively for conservation purposes. The Corps shall be notified in writing of any intention to reassign the conservation easement to a new grantee and shall approve the selection of the grantee. The new grantee shall accept the assignment in writing and a copy of this acceptance delivered to the Corps. The conservation easement shall then be re-recorded and indexed in the same manner as any other instrument affecting title to real property and a copy of the recorded conservation easement furnished to the Corps.

14. **Conservation Easement**[Alternate - deferred to state]: The Permittee shall preserve _____ acre(s) of wetlands and _____ acre(s) of uplands (Conservation Areas) in perpetuity by

recording a conservation easement within the boundaries and location annotated on the attached permit drawing of _____, and in accordance with procedures outlined in Special Condition No. _____ of the attached South Florida Water Management District (SFWMD) permit and the following conditions:

a. Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall submit to the Corps a copy of the recorded conservation easement document with exhibits (including legal description and sketch).

b. Any deviation from the established conservation easement cannot be performed without a modification to this permit instrument. The ability to modify or remove this conservation easement is neither implied nor guaranteed. If the conservation easement is removed for any reason, the Permittee shall provide appropriate mitigation to compensate for functional wetland loss.

15. Biological Opinion: This Corps permit does not authorize you to take an endangered species, in particular the _____. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a BO under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed US Fish and Wildlife Service Biological Opinion (BO) (Attachment _____) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The US Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

16. Fill Material: The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt,

construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.